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CENTER FOR DISABILITY ACCESS
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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(EASTERN DIVISION)

Suzannia Holden,

Plaintiff,

v.

Greyhound Lines, Inc., a Delaware
Corporation; and DOES 1-10,

Defendant.

Case No. EDCV12-1814-TJH (DTBx)

**Complaint For Damages And
Injunctive Relief** for violations of the
American with Disabilities Act; Unruh
Civil Rights Act; California Disabled
Persons Act

Demand for Jury

Plaintiff Suzannia Holden complains of Defendant Greyhound Lines, Inc.
and DOES 1-10, and alleges as follows:

PARTIES:

1. Plaintiff is a resident of La Verne, California. She has muscular dystrophy, cannot walk, and uses a wheelchair for mobility.

2. Defendant Greyhound Lines, Inc. ("Greyhound") is a Delaware corporation, with its principal place of business in Dallas, TX. Greyhound is licensed to do business in California.

COPY

1 **JURISDICTION & VENUE:**

2 3. This Court has subject matter jurisdiction over this action pursuant to 28
3 U.S.C. § 1331 and § 1343 for violations of the American with Disabilities Act.

4 4. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded
5 on the fact that this judicial district is where a substantial part of the events or
6 omissions giving rise to the claim occurred.

7
8 **FACTUAL ALLEGATIONS:**

9 5. Defendants operate “over-the-road bus” services also called “OTRB”
10 services.

11 6. For the last three years, the plaintiff has travelled on a regular basis between
12 her residence in La Verne, California to her mom’s home in Barstow, California. She
13 travels primarily by Greyhound. Due to her disability and the use of a wheelchair,
14 the plaintiff needs a wheelchair accessible bus. The plaintiff has learned that she
15 needs to make reservations with Greyhound 48 hours in advance to be able to use
16 an accessible bus.

17 7. On or about December 18, 2011, the plaintiff was scheduled to travel by
18 Greyhound from Barstow to Claremont, California. She had made reservations for
19 an accessible bus more than 48 hours prior to her trip. Her bus was schedule to
20 depart at 2:55 p.m.

21 8. That 2:55 p.m. bus arrived but the bus operator informed her that the
22 wheelchair lift was not operational. She could not board. She was told to wait for the
23 next bus.

24 9. The plaintiff then waited for the next Greyhound bus. Although the plaintiff
25 does not remember the exact time of the day that this bus arrived, she recollects it
26 was several hours later. The driver of the second bus informed the plaintiff that the
27 bus was too full and that she would have to wait for the 9:00 p.m. bus. She could not
28 board.

1 10. The plaintiff then waited for the 9:00 p.m. bus. When it arrived, the plaintiff
2 was informed by the driver that while he had room, he did not have a lift.
3 Fortunately, there was a second bus there at the same time travelling the same route
4 and it did have a lift. The lift-equipped bus was full, however, and to accommodate
5 the plaintiff, about six passengers would have to have moved from the lift-equipped
6 bus to the non-lift equipped bus. The driver of the lift-equipped bus refused to make
7 this accommodation.

8 11. The plaintiff called Greyhound and was told by a Greyhound person on the
9 phone to tell the driver to have the passengers move from the lift-equipped bus to
10 the not-full, non-lift-equipped bus. The plaintiff relayed this information but the bus
11 driver refused. Despite begging and pleading, the busses left at or around 9:45 p.m.,
12 leaving the plaintiff.

13 12. Everything was closed. There was no accessible public transportation
14 available. The plaintiff was forced to travel in her wheelchair all the way to her
15 mom's house which took her about an hour. It was raining and it was cold.

16 13. This is not the first such occasion where the plaintiff was unable to board a
17 properly scheduled and reserved bus ride from Greyhound because the defendants
18 failed to arrive with a working, accessible bus. There have been six prior such
19 occasions during the statutory period where the plaintiff was unable to ride on a
20 reserved bus trip due to the lack of an accessible bus. This was the last straw.

21 14. The plaintiff suffered emotional distress, frustration, embarrassment, and
22 anger over the treatment that she received by the defendants.
23

24 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH**
25 **DISABILITIES ACT OF 1990** (On behalf of plaintiff and against all defendants
26 (42 U.S.C. section 12101, et seq.)

27 15. Plaintiff repleads and incorporates by reference, as if fully set forth again
28 herein, the allegations contained in all prior paragraphs of this complaint.

1 16. No individual shall be discriminated against on the basis of disability in the
2 full and equal enjoyment of specified public transportation services provided by a
3 private entity that is primarily engaged in the business of transporting people and
4 whose operations affect commerce. 42 U.S.C. § 12184(a).

5 17. The regulations implementing 42 U.S.C. § 12184(a) are found at 49 C.F.R.,
6 part 37. These regulations took effect with respect to large operators on October 30,
7 2000, and to small operators on October 29, 2001. On information and belief,
8 Defendant Greyhound is a "large operator."

9 18. All over-the-road, fixed route transportation providers that have purchased
10 or leased new vehicles since the effective dates above have been required to
11 purchase or lease accessible buses. 49 C.F.R. § 37.183. For large operators, half of
12 their bus fleet was required to be accessible by October 30, 2006, unless an
13 extension was requested. 49 C.F.R. § 37.185. On information and belief,
14 Defendants have not acquired accessible buses as required by the regulations.

15 19. Until all buses in an operator's fleet are accessible, OTRB transportation
16 providers must make accessible buses available on request. 49 C.F.R. §
17 37.193(a)(1). The operator may require up to 48 hours advance notice to provide
18 this service. 49 C.F.R. § 37.193(a)(1)(I).

19 20. Despite the fact that the Plaintiff made requests for accessible bus services
20 48 hours or more in advance and, Defendants failed to provide accessible buses.

21 21. Wheelchair lifts are required to be maintained and inspected to ensure they
22 are operative, and buses with inoperative lifts are to be taken out of service for
23 maintenance. 49 C.F.R. § 37.203.

24 22. On information and belief, during the incidents described in this Complaint,
25 and at other times, Defendants failed to inspect and maintain bus lifts to ensure
26 they were operative and failed to take buses with inoperative lifts out of service.

27 23. Unlawful discrimination under the regulations includes, without limitation:
28 (1) Denying transportation to passengers with disabilities; (2) requiring or

1 requesting a passenger with a disability to reschedule his or her trip, or travel at a
 2 time other than the time the passenger has requested; (3) failing to provide
 3 reservation services to passengers with disabilities equivalent to those provided
 4 other passengers; and (4) failing or refusing to comply with any applicable provision
 5 of the regulations. 49 C.F.R. § 37.207.

6 24. Defendants, through their actions described in this Complaint, engaged in
 7 unlawful discrimination prohibited by 49 C.F.R. § 37.207.

8 25. All bus drivers are required to receive training in proper operation and
 9 maintenance of accessibility features and equipment, boarding assistance,
 10 securement of mobility aids, sensitive and appropriate interaction with passengers
 11 with disabilities, handling and storage of mobility devices, and familiarity with the
 12 requirements of the regulations. 49 C.F.R. § 37.209. OTRB operators shall provide
 13 refresher training to personnel as needed to maintain proficiency. *Id.* Entities which
 14 operate fixed route systems shall ensure that personnel are trained to proficiency, as
 15 appropriate to their duties, so that they operate vehicles and equipment safely and
 16 properly assist and treat individuals with disabilities who use the service in a
 17 respectful and courteous way, with appropriate attention to the difference among
 18 individuals with disabilities. 49 C.F.R. § 37.173.

19 26. On information and belief, during the incidents described in this Complaint,
 20 Defendants failed to provide appropriate training as required by the regulations.

21
 22 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
 23 **RIGHTS ACT** (On behalf of plaintiff and against all defendants) (Cal Civ § 51-53)

24 27. Plaintiff repleads and incorporates by reference, as if fully set forth again
 25 herein, the allegations contained in all prior paragraphs of this complaint.

26 28. A violation of the ADA is a violation of the Unruh Civil Rights Act. Cal. Civ. §
 27 51(f).
 28

1 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE CALIFORNIA**
2 **DISABLED PERSONS ACT** (On behalf of plaintiff and against all defendants)
3 (Cal Civ. § 54-54.8)

4 29. Plaintiff repleads and incorporates by reference, as if fully set forth again
5 herein, the allegations contained in all prior paragraphs of this complaint.

6 30. A violation of the ADA is a violation of the Disabled Persons Act. Cal. Civ.
7 54.1(d).

8
9 **PRAYER:**

10 Wherefore, Plaintiff prays that this court award damages and provide relief
11 as follows:


12 1. For injunctive relief, compelling defendants to comply with the Americans
13 with Disabilities Act and the Unruh Civil Rights Act. Note: the Plaintiff is not
14 invoking section 55 of the California Civil Code and is not seeking injunctive relief
15 under the Disabled Persons Act at all.

16 2. Damages under the Unruh Civil Rights Act and/or the California Disabled
17 Persons Act which damages provide for actual damages and a statutory minimum of
18 \$4,000 per offense. Note: a plaintiff cannot recover under both acts,
19 simultaneously, and an election will be made prior to or at trial.

20 3. Reasonable attorneys' fees, litigation expenses and costs of suit, pursuant to
21 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3.

22
23 Dated: September 13, 2012

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24
25 By: 
26 Mark Potter, Esq.
27 Attorneys for Plaintiff
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

Dated: September 13, 2012

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By: 
Mark Potter, Esq.
Attorneys for Plaintiff